

*These notes refer to the Social Security Fraud Act (Northern Ireland)
2001 (c.17) which received Royal Assent on 15 November 2001*

Social Security Fraud Act (Northern Ireland) 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 13: Delegation of functions

Article 14 of the Fraud Order introduced a new administrative penalty, with the insertion of new section 109A into the Administration Act. The provision applies where an overpayment is recoverable from a person by, or due from a person to, the Department or the authorities administering HB and it appears to the Department or those authorities that:

- the making of the overpayment was attributable to an act or omission on the part of that person; and
- there are grounds for instituting against him proceedings for an offence (under this Act or any other enactment) relating to the overpayment.

Where the provisions in section 109A(1) apply, then the Department or the authorities administering HB may give to the person a written notice:

- stating that he may be invited to agree to pay a penalty and that, if he does so in the manner specified by the Department or authorities administering housing benefit, no such proceedings will be instituted against him; and
- containing such information relating to the operation of this section as may be prescribed.

The structure of these provisions is based on the premise that the Department and the authorities administering HB will act independently of each other in the administration of the penalty system. This reflects the fact that they have statutory responsibility for different benefits. In particular, section 73 of the Administration Act confers a statutory duty upon the Housing Executive to administer HB.

The policy is to introduce powers that will facilitate closer working between the Department and the authorities administering HB in the operation of the administrative penalty system. At present, where a benefit offence results in overpayments of HB and another benefit and both the Social Security Agency and the authorities administering HB decide to offer an administrative penalty,

each will handle the process separately. This means two interviews and two sets of papers for the claimant.

The aim is both to make the system easier for those persons who may be subject to more than one penalty, and to streamline administrative procedures by enabling the Department and the authorities administering HB to act together in offering the penalty. This means one interview, not two, and one gross sum recovered. However, the process of recovery will still be the business of the Department and the authorities respectively.

Section 13 inserts new subsections (7A) and (7B) into section 109A of the Administration Act.

Subsection (7A) allows the Department and the authorities administering HB to agree to exercise functions under section 109A on each other's behalf or to act together in exercising those functions.

Subsection (7B) precludes the Department or the authorities administering HB from deciding on the other's behalf to offer an administrative penalty.